

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY JE D.C.
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PHILLIP E. BOYNTON, et al.,)
)
 Plaintiffs,)
)
 v.) No. 02-1111 M1/An
)
 HEADWATERS, INC., et al.,)
)
 Defendants.)

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN MEMPHIS

ORDER FOLLOWING TELEPHONE CONFERENCE AND DENYING DEFENDANT'S
MOTION TO DISMISS FOR FAILURE TO JOIN INDISPENSABLE PARTIES

A telephone status conference in this case was held on September 7, 2005 to discuss Defendant Headwaters' Motion to Dismiss for Failure to Join Indispensable Parties, filed September 2, 2005. Pursuant to the conference, the Court made the following orders:

Defendant's Motion to Dismiss is denied for the reasons articulated at the conference. The Court grants Defendant's motion to add additional parties or to proceed with class certification. Plaintiffs will indicate to the Court by Friday, September 16, 2005, whether they will proceed by class certification or whether they will join the additional parties as plaintiffs.

The case will be reset as follows: Both parties will submit

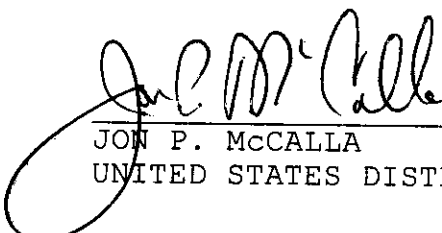
426

a proposed schedule (a joint proposed schedule if the parties can reach agreement), including a schedule for limited additional discovery, by September 16, 2005. The parties' Pretrial Order will be submitted to the Court no later than January 30, 2006. The Pretrial Conference will take place on February 6, 2006, at 8:45 a.m. The trial is reset to begin on February 13, 2006.

Additionally, Plaintiffs informed the Court that they have settled their claims with Defendant Davidson.

The Court will hold a telephone scheduling conference in this cause on Monday, September 19, 2005, at 8:30 a.m. Counsel for Plaintiffs shall initiate the call with all parties on the line.

So ORDERED this 9 day of September, 2005.



JON P. McCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 426 in case 1:02-CV-01111 was distributed by fax, mail, or direct printing on September 9, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT